

**JOINT EXAMINING BOARD MEETING
MARRIAGE AND FAMILY THERAPY, PROFESSIONAL COUNSELING
AND SOCIAL WORK JOINT EXAMINING BOARD
MEETING MINUTES
OCTOBER 27, 2009**

PRESENT: Arlie Albrecht, Eric Alvin, George Kamps, Bruce Kuehl, Charles Lindsey, Leslie Mirkin, Evelyn Pumphrey, Ann Marie Starr, Mary Jo Walsh

EXCUSED: Daryl Wood, LaMarr Franklin

STAFF: Jeff Scanlan, Bureau Director; Colleen Baird, Legal Counsel; Kimberly Wood, Bureau Assistant and other DRL Staff

GUESTS: Joseph D'Costa, DWD/DVR; Dan Zimmerman, DHS/DMHSAS; Mark Hale, DHS/BQA; Linda Pellman, WAMFT; Marc Herstand, NASW WI

CALL TO ORDER

Mary Jo Walsh, Chair, called the meeting to order at 9:06 a.m. A quorum of nine (9) members was present.

APPROVAL OF AGENDA

Amendment to the Agenda:

- After Item "G" (open session) ADD: "Request to Amend MPSW 20.02 Unprofessional Conduct to include a provision that defines a license holder's failure to report an action pursuant to s. 457.25 Stats (Reporting Requirements) is unprofessional conduct" prior to the item titled "Report of the Marriage and Family Therapist Section"

MOTION: Bruce Kuehl moved, seconded by Eric Alvin, to approve the October 27, 2009 agenda as amended. Motion carried unanimously.

ELECTION OF OFFICERS FOR 2010

NOMINATION: Leslie Mirkin nominated the 2009 slate of officers to continue in 2010. Nomination carried by unanimous vote.

Mary Jo Walsh, Chair, called for other nominations for Chair, Vice Chair and Secretary three (3) times.

2010 ELECTION RESULTS	
Board Chair	Mary Jo Walsh
Vice Chair	Leslie Mirkin
Secretary	Arlie Albrecht

APPROVAL OF MINUTES OF APRIL 15, 2009

Amendment to the Minutes:

- Page 4 of the Minutes: Under the header “Report of MPSW Joint Board Goal Setting Committee” correct as follows: “2. Achieving **Medicare medical assistance**...”
- Page 6 of the Minutes: Under the header “Report of Social Work Section” in the fifth sentence insert wording as follows: “...and because many MSW’s are becoming APSW’s **in route to LCSW’s.**”

MOTION: Eric Alvin, moved, seconded by Ann Marie Starr, to approve the minutes of April 15, 2009 as amended. Motion carried unanimously.

ADMINISTRATIVE REPORT

2010 Meeting Dates

The Board reviewed its proposed 2010 meeting dates, which are scheduled for January 12, 2010; April 13, 2010; July 27, 2010; and October 26, 2010.

The Board then discussed the possibility of offsite meetings in 2010. Jeff Scanlan advised that the Secretary is planning an offsite outreach event for the early part of 2010. The Board discussed possible agenda topics that would address areas of concern for the professions under the Joint Board.

MOTION: Ann Marie Starr moved, seconded by Eric Alvin, to approve the proposed 2010 meeting dates. Motion carried unanimously.

PRESENTATION ON THE 18-MONTH DOE CASE CLOSURE PROJECT – PRESENTATION BY BRUCE CAMERON, SPECIAL ASSISTANT TO THE SECRETARY, LYDIA THOMPSON, PARALEGAL

Bruce Cameron, Special Assistant to the Secretary, appeared before the Board to provide a PowerPoint presentation regarding the Division of Enforcement’s 18-month case closure project. Jack Zwieg, DOE Attorney, joined the presentation. Bruce Cameron and Jack Zwieg answered questions regarding this project. The Board provided feedback regarding the 18-month case closing initiative. Paper copies of the PowerPoint presentation viewed by the Board at today’s meeting were distributed.

SUMMARY REPORTS ON PENDING COURT CASES, DISCIPLINARY CASES, ADMINISTRATIVE RULES AND PRESS RELEASES

Jeff Scanlan advised the Board that the status of various administrative rule drafts would be covered during topics included on today's agenda.

STATUS OF RULES AND STATUTES

REVIEW OF DRAFT RULES: CHANGES TO S. MPSW 1.11 PSYCHOMETRIC TESTING

Jeff Scanlan reviewed the current rules analysis relating to the proposal to amend MSPW 1.11 before the Board. Mr. Scanlan advised that the Psychology Examining Board has reviewed and approved the rule draft but noted a potential supervisory issue within the rule draft. Mr. Scanlan indicated that the rule change is silent about who is able to provide supervision of psychometric testing, and given existing language for regulation of practice of psychology, licensed psychologists would be the only individuals able to supervise psychometric testing. Bruce Kuehl and Bruce Erdmann have addressed this issue in a subsequent revision. Another issue the Board considered was the qualification for a supervisor to supervise those performing psychometric testing. The Board felt that clear criteria defining the qualifications for supervision is in place. After further discussion, the Board authorized amendments to revise grammatical inconsistencies within the rule draft.

MOTION: Eric Alvin moved, seconded by Arlie Albrecht, to approve the amended MPSW 1.11 rule draft to move forward in the rule making process.
Motion carried unanimously.

PROPOSED REPEAL OF S. 457.02 (5M), WIS. STATS. PERTAINING TO REQUIREMENTS FOR SUBSTANCE ABUSE AND SUBSTANCE USE DISORDER TREATMENT BY A LICENSEE OF THE BOARD (MARRIAGE AND FAMILY THERAPIST, PROFESSIONAL COUNSELOR, & CLINICAL SOCIAL WORKER) – REVIEW OF LRB DRAFT, NEXT STEPS AND BOARD ACTION

The Board discussed the next steps to be taken in the pursuit of legislation to repeal s 457.02 (5m). Ann Marie Starr, George Kamps and Mary Jo Walsh will work together to identify an approach to legislative introduction and to identify talking points on this legislation. This matter will be revisited in January 2010. Comments from Mark Herstand, NASW-WI were heard by the Board during the discussion.

**LETTER FROM KARI ESBEN REGARDING DIFFICULTY IN OBTAINING PAID
SUPERVISED EXPERIENCE OPPORTUNITIES REQUIRED FOR PROFESSIONAL
COUNSELOR LICENSURE**

The Board reviewed correspondence from Kari Esben regarding difficulty in obtaining supervised experience required for licensure. The Board acknowledged this as an ongoing issue they are working to address. Charles Lindsey will work with Jeff Scanlan to draft a response to Ms. Esben.

**CHANGES TO CHAPTER 457 CONCERNING VENDORSHIP/MENTAL HEALTH
ACCESS CHANGES ENACTED IN 2009 WI ACT 28 (BUDGET)**

No discussion or action was required for this topic.

**DISCUSSION ON OPTIONS FOR ADDRESSING DHS CERTIFIED
PSYCHOTHERAPIST (A.K.A. UNLICENSED “3RD PARTY PROVIDER LETTER
HOLDERS) ISSUES – BARRIERS TO LICENSURE, EFFECTS OF HFS 35**

Mark Hale, Department of Health Services – Bureau of Quality Assurance (DHS/BQA), and Dan Zimmerman, Department of Health Services – Division of Mental Health and Substance Abuse Services (DHS/DMHSAS), appeared before the Board to discuss options for DHS certified psychotherapists (3rd party provider letter holders). DHS certified psychotherapists are individuals who have obtained 3,000 hours of supervised practice of psychotherapy and subsequently were issued a letter of authorization for psychotherapeutic practice and billing with HFS 35-certified outpatient mental health clinics. The Board identified that these letter holders face a number of issues relating to the upcoming sunset of DHS issuance of 3rd party provider letters (per s. DHS 35.03(10), Wis. Admin. Code), such as from clinics who choose to let their HSF 35 certification expire and barriers to licensure under any of the Sections of the Joint Board. Other issues include anecdotal evidence that DHS-authorized providers consider their letters as a certification rather than an authorization to only provide services in a HFS 35-certified outpatient clinic. Finally, the Board stated a concern that some supervisors in mental health clinics appear to be unaware of individual requirements for supervised practice for licensure as a marriage & family therapists (LMFT), professional counselor (LPC) or clinical social worker (LCSW).

Mark Hale, provided background to the Board regarding the inception of the 3rd party provider process established by Dan Crossman of DHFS in 1989. Mr. Crossman centralized the review process and this became known as the individual provider status approval process. Prior to 1995 when certification was implemented through the sections of the Joint Board, the letter issued by DHSF was used by insurance companies and by Medicaid as evidence of a psychotherapist's ability to provide psychotherapy services. Dan Zimmerman noted that the review process covers both review of supervised practice as well as underlying education.

Mark Hale indicated that in 2001, he identified concerns surrounding the review process related to the lack of continuing education requirements for renewal and the lack of provisions to provide consequences for inappropriate behavior. This is an ongoing point of concern as the 3rd party provider status never expires.

Mark Hale went on to express feedback he had received from HFS 35-certified clinics around the state indicating that they need providers and that the DHS certification is often sought because the current licensure process employed by DRL and the Joint Board is either not timely, or the clinics find an unlicensed person whom they wish to employ immediately and they contact DHS for issuance of a provider status. Mr. Hale advised the Board that in his opinion, many of the individuals that receive the 3rd party provider letter are indeed qualified and should be considered for credentials issued by the sections of the Joint Board. Mr. Hale expressed that for public protection, the Board should devise a method by which unlicensed 3rd party providers should be credentialed under the Joint Board.

The Board discussed pro-active measures that may be pursued by the MPSW Joint Board, DRL and DHS collaboratively in order to provide options that are not currently in place for affected letter holders.

Dan Zimmerman discussed with the Board the issue of financial reimbursement. It was noted that the issue of reimbursement greatly impairs access in that licensed trainees (e.g. marriage & family therapist or professional counselor training license holders) have difficulty finding paid positions during their training period. However, Mr. Zimmerman indicated that, under existing regulations, payment for service should be available in HFS 35-certified clinics for trainees. Dan Zimmerman and Mark Hale discussed measures that have been taken by DHS to secure reimbursement for DHS certified clinic trainees. As verified by Mark Hale with the Office of the Commissioner of Insurance, HFS 35 has clearly defined qualified treatment trainees making the denial of a claim against a clinic, for a services provided by a trainee, difficult at best.

The Board reviewed the individual provider status application. Discussion of requirements for obtaining the individual provider status letter ensued. Jeff Scanlan requested a meeting of representatives of the Joint Board, DRL and DHS to discuss options for letter holders. Representatives of the Board (Leslie Mirkin, George Kamps, Ann Marie Starr, Charles Lindsey and Eric Alvin) were authorized to speak on behalf of the Board on this issue.

The Board discussed possible measures by which unlicensed letter holders would be prepared for credentialing by the board. One method would be to review underlying education and practice of the letter holder to determine the appropriate credential. Another option raised for discussion would be to create a generic credential for providing psychotherapy under supervision. Both options would require a statutory change. Marc Herstand, NASW, provided recommendations regarding an approach to credentialing 3rd party provider letter holders in one of the professions regulated by the Joint Board. Continued discussion of options for 3rd party provider letter holders ensued.

MOTION: Arlie Albrecht moved, seconded by Leslie Mirkin, to arrange a meeting between DHS and DRL, and to identify members of the Board to participate in discussion of a regulatory fix for individual provider status letter holders (aka: Dan Crossman letter) whom may not be able to practice legally outside of the HSF 35 clinic structure. Motion carried unanimously.

MOTION: Eric Alvin moved, seconded by Bruce Kuehl, to authorize Leslie Mirkin, George Kamps, Ann Marie Starr, Charles Lindsey and Eric Alvin to speak on behalf of the Board regarding this issue. Motion carried unanimously.

**REPORT OF MPSW JOINT EXAMINING BOARD GOAL SETTING COMMITTEE
(MEMBERS: E. ALVIN; A. ALBRECHT, E. PUMPHREY)**

Jeff Scanlan reported to the Board regarding today's meeting of the MPSW Joint Board's Goal Committee. The Board received a recommendation to identify the following three (3) goals as the Board's top priorities:

1. Accommodation of the Unlicensed 3rd Party Providers (AKA: Dan Crossman letter holders). The Board to take action in terms of recognizing or grand parenting these individuals that may not hold or qualify for a certificate or license under the Joint Board.
2. Amendment of Wis. Stat. s. 457.02 regarding repeal of provisions that restrict license holders from providing treatment of substance abuse and substance use disorders.
3. Creation of supervisor training guidelines and address disparity between supervisor regulations across sections of the Joint Board.

MOTION: Arlie Albrecht moved, seconded by Evelyn Pumphrey, to adopt the recommendation made by MPSW Joint Board Goal Setting Committee as the goals of the MPSW Joint Board for 2010. Motion carried unanimously.

**REPORT ON BOARD MEMBER TELECONFERENCE WITH WISCONSIN
ASSOCIATION CHILDREN AND FAMILY AGENCIES (WAFCA) RE SUPERVISORY
ISSUES – GEORGE KAMPS**

George Kamps reported that he recently participated in a teleconference meeting with WAFCA, Bruce Kuehl and other individuals that had participated in previous WAFCA Ad Hoc Workgroup meetings. This meeting focused on existing standards and supervisory awareness of the Board's requirements for supervision.

WAFCA requested that representatives from each section of the Board be identified to participate in the development and execution of a WAFCA sponsored supervisory training session. This training session will be available to individuals outside of WAFCA's membership and will be provided via webinar to increase access to the supervisory training. The training session is still in planning stages and as such, a date of release has not yet been established.

MOTION: Eric Alvin moved, seconded by Ann Marie Starr, to authorize George Kamps, Bruce Kuehl and Evelyn Pumphrey to participate in a WAFCA sponsored supervisory training session. Motion carried unanimously.

REQUEST TO AMEND MPSW 20.02 UNPROFESSIONAL CONDUCT TO INCLUDE A PROVISION THAT DEFINES A LICENSE HOLDER'S FAILURE TO REPORT AN ACTION PURSUANT TO S. 457.25 STATS (REPORTING REQUIREMENTS) IS UNPROFESSIONAL CONDUCT

Eric Alvin presented his proposal to amend s. MPSW 20.02, Wis. Admin. Code to include provisions for failure of credential holders to report as required under s. 457.25 Wis. Stats. A handout, prepared and distributed by Eric Alvin, outlined options for including reporting requirement and/or supervisory standards in MPSW 20. Mr. Alvin indicated that at the last Social Work Section meeting two cases containing egregious code violations had been reviewed and it was determined that in both cases the respondent's supervisors did not report. If the supervisors held social worker licensure, they would be subject to discipline as any violation of chapter 457 is subject to investigation and disciplinary action.

Mr. Alvin noted that there is a substantial gap in s. MPSW 20.02, relating to unprofessional conduct, in the lack of the reporting requirement. The supervisory standards are contained in s. 457.25 Wis. Stats., but most licensees of the Board refer to the administrative code. It was also indicated that the language in statute is vague about whose responsibility it is to report a violation. The addition of the reporting requirements to the administrative code would provide clarity to credential holders. Also, as reported by Mr. Alvin, continuing education on ethics seems to focus on the contents of MPSW 20, however ignore other areas of statutory obligation. Amending MPSW 20 to include reporting requirements may increase awareness of the requirement. Finally, Mr. Alvin reported that in a recent ethics seminar he attended, the instructor talked about when a license holder should consider reporting, however never advised the attendees of who to report to and how to do so. Potential violations of a marriage & family therapist, professional counselor or social worker should be reported to the appropriate section of the Department & Regulation & Licensing at 1400 E. Washington Ave, PO Box 8935, Madison, WI 53708-9935 (more information on filing a complaint may be found at <http://drl.wi.gov/dept/complaint.htm>).

Jeff Scanlan advised the Board that the Department is currently pursuing means to broadcast the reporting requirement outlined in s. 457.25 Wis. Stats., as there is a pronounced need to educate credential holders and clinics on this requirement (the Department has received nine reports filed pursuant to s. 457.25 Year to Date).

MOTION: Ann Marie Starr moved, seconded by Bruce Kuehl, to request that the Department draft a scope statement regarding to an amendment to MPSW 20.02 to include supervisory reporting requirements and the previously requested scope to amend MPSW 20.02 to establish a grievance procedure in the area of code of conduct. Motion carried unanimously.

REPORT OF MARRIAGE AND FAMILY THERAPIST SECTION

Bruce Kuehl reported that the last Marriage and Family Section meeting was July 28, 2009. Discussions at that meeting focused mainly on application review. Also discussed was the amendment of the training license requirement which would allow the section to accept hours submitted by applicants of other states, DHS individual provider status letter holders, a link to be added to the Sections webpage to the DHS site regarding HSF 35 and related forms, and the process for repeal of substance abuse requirements outlined in s. 457 Wis. Stats.

Report on Association of Marriage & Family Therapy Regulatory Boards (AMFTRB) 2009 Annual Meeting – Ann Starr

Ann Marie Starr reported to the Board regarding her experience at the 2009 AMFTRB Annual Meeting. Ms. Starr reported that regulation of supervision is currently the biggest national issue. Portability of licensure was also noted as a prominent national issue.

REPORT OF PROFESSIONAL COUNSELOR SECTION

Leslie Mirkin reported to the Board regarding the activity of the Professional Counselor Section. The Section met the day prior, October 26, 2009 and will meet again today, October 27, 2009 to continue the review of applications. The main topic of interest at the Section meeting was the adequacy of the existing education requirements for licensure. A number of representatives from institutes of higher education were invited to attend this meeting to provide feedback regarding an increase of the educational requirements for professional counseling licensure. Jeff Scanlan will draft a scope statement addressing the Sections wish to increase the education requirement for licensure.

REPORT OF SOCIAL WORKER SECTION

George Kamps reported that the Social Work Section met last on September 23, 2009. Three highlights from that meeting include:

- 1) The establishment of a workgroup to look at the BSW requirements vs. the Social Work Training Certificate requirements in terms of supervision and academic requirements, in that the Wisconsin Council on Social Work Education is implementing new national standards for what is covered in their BSW programs. The Section will continue to

identify substantial equivalency across the board between the BSW applicants and Social Work Training Certificate applicants.

- 2) George Kamps reported that there is a vested interest in raising awareness of supervision requirements and to enlighten supervisors about the areas which they provide attestation for.
- 3) Finally, the section is revising the application for licensure in an attempt to clarify the reciprocity requirements as relates to clinical education and experience. The revision will include additional information relating to the submission requirements for reciprocity.

REVIEW OF INQUIRIES RECEIVED BY LEGAL COUNSEL

Colleen Baird, Legal Counsel, advised the Board that there are no practice questions to be addressed by the Board at today's meeting.

PUBLIC COMMENTS

None.

OTHER BOARD BUSINESS

None.

ADJOURNMENT

MOTION: Arlie Albrecht moved, seconded by Eric Alvin, to adjourn the meeting.
Motion carried unanimously.

The meeting adjourned at 12:51 p.m.